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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/019,518	12/28/2001	Andre Kudelski	16674-7	8685
41972 7590 11/10/2009 LAW OFFICES OF STUART J. FRIEDMAN 28930 RIDGE ROAD MT. AIRY, MD 21771				
EXAMINER				
IDOWU, OLUGBENGA O				
ART UNIT		PAPER NUMBER		
2425				
MAIL DATE		DELIVERY MODE		
11/10/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/019,518

Applicant(s)

KUDELSKI ET AL.

Examiner

OLUGBENGA IDOWU

Art Unit

2425

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/86)
Paper No(s)/Mail Date ____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1 - 4 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 1 recites the limitation "the conditions" in the third sections of the claim.

There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1 – 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tamer, patent number: US 6 671 881 B1 in view of Young, publication number: US 2003/0159147 A1 in further view of Kubota, patent number US 7 023 992 B1.

As per claim 1, Tamer teaches a system for selecting and confirming an impulse purchase for pay television, the system comprising:

Means for selection by the user of a program of a particular choice of the user, the choice confirmed in the system by an entitlement management message, the message being specific to an impulse purchase (selecting programs from an EPG, col. 3, lines 30 – 59, EMM, col. 4, lines 42 – 49, 54 – 57),

the program listing comprising date and time of broadcast of an impulse purchase program (program guide, col. 3, lines 30 – 59), the system further comprising a security module and means to transfer the entitlement management message specific to the impulse purchase to the security module when the user selects said impulse purchase program (smart card receiving EMM, col. 4, lines 42 - 67) and if the conditions are met, recording the impulse purchase and granting access to the purchased program (granting access, col. 4, lines 65 - 67)

Tamer does not teach a display device for presentation to a user a listing of programs. In an analogous art, Young teaches a display device for presentation to a user a listing of programs (display and guide, [0073- 0074], [0139]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Tamer by including a system that allows available programs to be viewed on a display, as described by Young's television schedule system, for the advantages of improving system interactivity and giving the user a better idea of the available programs.

Tamer and Young do not teach a reference to the entitlement management message responsive to the authorization of said impulse purchase program.

In an analogous art, Kubota teaches a reference to the entitlement management message responsive to the authorization of said impulse purchase program (Fig. 3, 4 and 11, conditional access descriptor, col. 20, lines 25 – col. 21, line 8)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination of Tamer and Young's entitlement system by including a system that references the entitlement message as described in Kubota's conditional access device for the advantages of quicker access to program related information.

As per claim 2, the combination of Tamer, Young and Kubota teach System according to Claim 1, wherein the entitlement management message is used locally in a hardware subassembly installed at the user's premises, the hardware subassembly comprising a security module in which is stored subscriber authorizations and subscriptions profile relating to the user (Tamer: smart card apparatus 31, col. 4, lines 42 – 49, Fig. 3).

As per claim 3, the combination of Tamer, Young and Kubota teach System according to Claim 1, wherein the entitlement management message specific to the impulse purchase includes a notification to authorize viewing, or veto of the viewing authorization (Tamer: EMM for determining programs viewers are entitled to, col. 4, lines 54 - 57).

As per claim 4, the combination of Tamer, Young and Kubota teach system according to Claim 1, wherein the entitlement management message (EMM) comprises conditions defining the authorization of viewing and conditions of cancellation of the authorization (Tamer: authorization, col. 4, line 65 - 67).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OLUGBENGA IDOWU whose telephone number is (571)270-1450. The examiner can normally be reached on IFP.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendleton can be reached on 5712727527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 10/019,518
Art Unit: 2425

Page 6

/O. I./
Examiner, Art Unit 2425

/Brian T. Pendleton/
Supervisory Patent Examiner, Art Unit 2425